

AMENDED IN SENATE MAY 2, 2006  
AMENDED IN ASSEMBLY JANUARY 18, 2006  
AMENDED IN ASSEMBLY JANUARY 4, 2006  
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1160**

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**Introduced by Assembly Member Lieber  
(Coauthors: Assembly Members Jones, Koretz, and Torrico)**

February 22, 2005

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*An act to add Section 1127h to the Penal Code, relating to crime.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1160, as amended, Lieber. Crime.

~~Existing law provides that a person who commits a felony that is a hate crime or attempts to commit a felony that is a hate crime, shall receive an additional term of one, 2, or 3 years in the state prison, as specified. Existing law, Judicial Council of California Criminal Jury Instruction No. 200, provides that is the duty of the trier of fact not to let "bias, sympathy, prejudice, or public opinion" influence its decision.~~

This bill would state legislative findings and declarations regarding the influence of a defendant's bias against the victim upon the trier of fact in a criminal proceeding and defendants' use of panic strategies based upon discovery or knowledge of an actual or perceived characteristic of their victim to decrease criminal culpability for crime.

~~This bill would also state legislative intent that Judicial Council of California Criminal Jury Instructions define "bias" to include bias based upon a victim's actual or perceived disability, gender, nationality, race or ethnicity, religion, or sexual orientation, or~~

~~association with a person or group with one or more of these characteristics provide that a party may request that the jury receive an instruction that defines bias as inclusive of bias against the victim or victims based upon disability, gender, nationality, race or ethnicity, religion, gender identity, or sexual orientation, in any criminal trial.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) California law defines a hate crime as a criminal act  
4 committed, in whole or in part, because of the actual or perceived  
5 disability, gender, nationality, race or ethnicity, religion, or  
6 sexual orientation of the victim, or his or her association with a  
7 person or group with one or more of these actual or perceived  
8 characteristics.

9 (b) It is the right of every person regardless of actual or  
10 perceived disability, gender, nationality, race or ethnicity,  
11 religion, or sexual orientation, or association with a person or  
12 group with these actual or perceived characteristics, to be secure  
13 and protected from fear, intimidation, and physical harm caused  
14 by the actions of violent groups and individuals.

15 (c) “Bias” includes bias based upon the victim’s actual or  
16 perceived disability, gender, nationality, race or ethnicity,  
17 religion, or sexual orientation, or the victim’s association with a  
18 person or group with one or more of these characteristics.

19 (d) It is against public policy for juries to render decisions  
20 tainted by bias based upon the victim’s actual or perceived  
21 disability, gender, nationality, race or ethnicity, religion, or  
22 sexual orientation, or his or her association with a person or  
23 group with one or more of these characteristics.

24 (e) “Panic strategies” are those strategies that try to explain a  
25 defendant’s actions or emotional reactions based upon the  
26 knowledge or discovery of the fact that the victim possesses one  
27 or more of the characteristics listed above or associates with a  
28 person or group with one or more of the those characteristics.

29 (f) The Legislature is concerned about the use of societal bias  
30 in criminal proceedings and the susceptibility of juries to such

1 bias. The use of so-called “panic strategies” by defendants in  
2 criminal trials opens the door for bias against victims based on  
3 one or more of the characteristics listed above or an association  
4 with a person or group with one or more of those characteristics.

5 (g) It is against public policy for a defendant to be acquitted of  
6 a charged offense or convicted of a lesser included offense based  
7 upon an appeal to the societal bias that may be possessed by  
8 members of a jury.

9 ~~SEC. 2. It is the intent of the Legislature that Judicial Council~~  
10 ~~of California Criminal Jury Instructions No. 200 reflect the~~  
11 ~~legislative policy stated in this act by defining “bias” as provided~~  
12 ~~in this act.~~

13 *SEC. 2. Section 1127h is added to the Penal Code, to read:*

14 *1127h. In any criminal trial or proceeding, upon the request*  
15 *of a party, the court shall instruct the jury as follows:*

16 *“Do not let bias, sympathy, prejudice, or public opinion*  
17 *influence your decision. Bias includes bias against the victim or*  
18 *victims based upon his or her disability, gender, nationality, race*  
19 *or ethnicity, religion, gender identity, or sexual orientation.”*